



North Carolina Department of Environment and Natural Resources

Division of Waste Management

Beverly Eaves Perdue
Governor

Dexter R. Matthews
Director

Dee Freeman
Secretary

July 25, 2012

Mr. Mark Stephens, Director of Public Works
City of New Bern
P.O. Box 1129
New Bern, N.C. 28563

Re: Compliance History Review, New Bern Yard Waste Facility, Permit #2506-COMPOST-1991, Document ID 16953

Mr. Stephens:

The agency received your application for five-year renewal of Permit #2506-COMPOST-1991. Under N.C.G.S. § 130A-294 (b2)(2) and 295.3 the agency will be conducting a review to determine the City of New Bern's past compliance with federal and state laws, regulations, and rules, including permit conditions, for the protection of the environment or conservation of natural resources. Enclosed is a preliminary questionnaire for you to complete for all solid waste management facilities that the City of New Bern has been issued a permit by the Solid Waste Section. Additional follow-up information may be requested. Please be advised that under subsection N.C.G.S. § 130A-294(b3), the agency is not required to review your application until you have satisfied the agency that you have met the requirements of subsection (b2).

Please submit the completed questionnaire to me at the following address: 2090 US Highway 70, Swannanoa, NC 28778.

Best regards,

Allen Gaither
Permitting Engineer

cc: Mr. Tony Gallagher, Composting & Land Application Branch Head
Ms. Donna Wilson, Permitting Engineer
Mr. Dennis Shackelford, Western District Supervisor
Mr. Ray Williams, Environmental Senior Specialist

Compliance Review

The applicant, City of New Bern, is requested to provide the following information for all solid waste management facilities that the City of New Bern has been issued a permit by the Solid Waste Section. For purposes of the questions below, the phrase “within the past five years,” means five years prior to the date of this request.

For each question that is marked with an answer other than “not applicable,” please provide a written, detailed explanation, including how or if the matter has been resolved.

A. The following question applies to all of the applicant’s solid waste management (including hazardous waste management) activities.

1. With respect to the applicant’s solid waste management activities, check whether the applicant has been a party to or received any of the following within the past five years:

- ☐ a. Compliance Order with a penalty
- ☐ b. Compliance order without a penalty
- ☐ c. Order to cease operating
- ☐ d. Order to abate public health nuisance [130A-19];
- ☐ e. Order to abate imminent hazard [130A-20];
- ☐ f. Order to abate nuisance scrap tire site [130A-309.60].
- ☐ g. Administrative Consent Agreement or Settlement Agreement (e.g., may involve revised permit conditions)
- ☐ h. Revocation or suspension of a permit
- ☐ i. Denial of a permit application for a solid waste management facility
- ☐ j. Penalty Collection lawsuit (lawsuit to collect an unpaid penalty)
- ☐ k. Confession of Judgment (for the payment and collection of an unpaid penalty or other monies owed to a special account, such as the scrap tire account or white goods account)
- ☐ l. Injunctive relief or law suit for injunctive relief
- ☐ m. Lawsuit for forfeiture of gain (N.C.G.S. §130A-28)
- ☐ n. Lawsuit for recovery of money (N.C.G.S. §130A-27)
- ☐ o. State Criminal action- misdemeanor or felony (N.C.G.S. 130A-25; 130A-26.1 and 26.2; 14-399)
- ☐ p. Federal criminal action-misdemeanor or felony

B. **[Note: Questions 2 and 3 cover any type of environmental violation.]**
Check all applicable boxes **(ONE MUST BE CHECKED FOR EACH QUESTION)**.

Within the past five years:

2. The applicant has been convicted of, or pled guilty or no contest to, a criminal violation of a statute, regulation, or rule for the protection of the environment or conservation of natural resources.

- ☐ a. in state court
- ☐ b. in federal court
- ☐ c. not applicable

3. A monetary penalty (whether denominated as a civil penalty, an administrative penalty, a judicial penalty, or by some other designation), has been assessed against the applicant for the violation of a state or federal statute, regulation, rule, including a permit condition, or for the protection of the environment or conservation of natural resources.
- ☐ a. in a state forum
 - ☐ b. in a federal forum
 - ☐ c. not applicable

[Note: Questions 4 and 5 will encompass those situations where a solid waste management facility operated in violation of solid waste management statutes/regulations, as well as water quality, including groundwater and surface water, sedimentation and erosion control, and air quality statutes/regulations, among others.]

4. With respect to any solid waste management facility (including hazardous waste management) owned or operated by the applicant, a lawsuit for injunctive relief has been filed against the applicant for the violation of a statute, regulation or rule for the protection of the environment or conservation of natural resources.
- ☐ a. in state court
 - ☐ b. in federal court
 - ☐ c. not applicable
5. With respect to any solid waste management facility (including hazardous waste management) owned or operated by the applicant, a judgment, or consent judgment, for injunctive relief has been entered against the applicant for the violation of any statute, regulation or rule for the protection of the environment or conservation of natural resources.
- ☐ a. in state court
 - ☐ b. in federal court
 - ☐ c. not applicable
6. A permit for a solid waste management facility owned or operated by the applicant has been revoked or suspended.
- ☐ a. in a state forum
 - ☐ b. in a federal forum
 - ☐ c. not applicable
7. An environmental permit for any undertaking other than a solid waste management facility has been revoked or suspended.
- ☐ a. in a state forum
 - ☐ b. in a federal forum
 - ☐ c. not applicable

8. The applicant submitted a permit application for the proposed ownership or operation of a solid waste management facility that has been denied.
- ☐ a. in a state forum
 - ☐ b. in a federal forum
 - ☐ c. not applicable
9. A governmental agency or unit has notified the applicant in writing that the applicant has operated or is operating a solid waste management facility without the requisite permit.
- ☐ a. yes
 - ☐ b. not applicable
10. A governmental agency or unit has notified the applicant in writing that the applicant has operated or is operating a solid waste management facility outside the scope of the permitted activity.
- ☐ a. yes
 - ☐ b. not applicable
11. A governmental agency or unit has notified the applicant in writing that the applicant has operated or is operating a facility or undertaking other than a solid waste management facility without the requisite environmental permit(s).
- ☐ a. yes
 - ☐ b. not applicable

The applicant may be requested to provide a written, sworn statement certifying the status of the matter.

If the applicant certifies that the applicant is now in compliance, the applicant may be asked to submit proof from the agency having jurisdiction over the violation that the applicant is in the process of correcting or has corrected the violation to the satisfaction of the agency.

The applicant will be asked to certify the truth and accuracy of the answers provided to these compliance review questions.

I, _____, hereby certify on behalf of the City of New Bern as applicant's _____ (title of position with applicant), that I have read the foregoing answers provided to the Compliance Review, that the information and answers contained in the responses to the Compliance Review are true and accurate based on my own knowledge and my review of documents and that I have not omitted any material information or falsified any information contained in the foregoing answers. I am aware that there are significant penalties for making any false statement, representation, or certification including the possibility of a fine and imprisonment.

Signature/printed name and title:

Attest: _____

State of _____

County of _____

Sworn and subscribed to before me this the ____ day of ____, 201__.

notary public

My Commission expires:

SEAL